

Optometry . . . The Biggest Bang for the Malpractice Premium Buck

Many of the states introducing scope of practice expansion legislation have informed us that organized medicine and/or organized ophthalmology continue to make dire warnings of increased malpractice claims as a reason optometrists should not be granted additional scope authority. Nothing could be farther from the truth.

One only has to see print or electronic news coverage to know that there is a huge crisis in malpractice and malpractice professional liability coverage for **medical physicians**. The escalating problem of malpractice insurance premium rates for medical physicians makes liability reform one of the primary legislative targets of the American Medical Association (AMA) at both the state and Federal level. It is important to note that **malpractice premium rates are set by carriers based on their past experience with a provider group plus a reasonable profit for the carrier.**

According to the AMA, in many states medical liability premiums remain at, or near, all-time highs.

Liability premiums [for medical physicians] increased more than 1,029 percent throughout the country from 1976 through 2007—except in California. Medical liability premiums in many states, including Pennsylvania, New Jersey and Connecticut, are at levels more than double those of just a few years ago.¹

¹ See *The Case For Medical Liability Reform* at: <http://www.ama-assn.org/ama1/pub/upload/mm/-1/case-for-mlr.pdf> [taken from the Internet 9/18/12]

Every medical malpractice carrier is required by Federal law to report malpractice payments made on behalf of healthcare providers to the National Practitioner Data Bank (NPDB). The NPDB has compiled cumulative data on malpractice payments since the program began in September 1990. The report is available on the NPDB web site and **currently contains cumulative data on malpractice payments made for all classes of healthcare providers from September 1, 1990 through November 25, 2012; a total of 22 years, 3 months.** This aggregate data is broken down into the number of payments by class of provider by state. Listed below are the total numbers of malpractice payments made by carriers over the past 22 years, 3 months for the independent doctoral-level provider groups that are authorized by the state legislatures to prescribe drugs and treat disease:

Medical Physicians..... 276,384 [total payments over 22 years, 3 months]
Osteopathic Physicians 18,067 [total payments over 22 years, 3 months]
Dentists 47,190 [total payments over 22 years, 3 months]
Podiatrists 7,808 [total payments over 22 years, 3 months]
Optometrists 743 [total payments over 22 years, 3 months]

The fact is that only **743** reported malpractice payments made for optometrists in the past **22 years, 3 months** clearly shows **the excellent safe and effective track record of the profession of optometry.** How organized medicine can even hope to use a malpractice argument against legislation proposing to increase optometric scope of practice is hard to understand.

Malpractice insurance premiums for optometrists are, and remain, the lowest of any of the independent doctoral-level healthcare professions. These premium rates are lower than those paid by some non-doctoral supervised allied health professions such as nurse practitioners and physician assistants.

The rate for Territory CW1 in the American Optometric Association's (AOA) endorsed professional malpractice insurance plan (the rate group that encompasses the vast majority of states) is **\$528/year/\$2 million professional liability coverage** per incident (\$4 million annual aggregate) for optometrists in full-time private practice. **Not \$52,800, not \$5,280, but \$528 per year!** And for \$1 million professional liability coverage per incident (\$3 million annual aggregate) the premium rate drops to **\$451/year.** Most people pay more each month for their home mortgage or car payment than a Doctor of Optometry pays for an entire year's worth of professional malpractice liability coverage.

Malpractice liability does not occur for any of the healthcare professions based on scope of practice or prescriptive authority. You may be interested to know that in the AOA-endorsed insurance plan optometrists in Oklahoma and Kentucky (states with broad scope authority that includes surgery and lasers) and optometrists in Maryland (state with limited scope authority) are all included in Territory CW1. **Optometrists in each of these three states, that have widely varied scopes of practice, pay the exact same low premium rate of \$528/year.** Malpractice occurs primarily for two reasons: misdiagnosis (or lack of diagnosis) and bad/poor treatment outcomes. Malpractice does not occur based on scope of practice or prescriptive authority.

Malpractice rates are based on past experience plus a reasonable profit for the carrier. **Malpractice premium rates set so unbelievably low for optometrists confirm a low rate of actual occurrence of malpractice claims.**

Unfortunately, when some carriers face huge losses from the medical profession or from the carriers' investments, rates for optometrists may go up a bit as the cost of doing business for carriers may increase in general. In fact, some carriers may drop healthcare professional liability coverage altogether (this has happened in the past) and coverage for optometry may be discontinued by those carriers as part of this business decision.

The fact is that at a rate of \$528/year/\$2 million in coverage (and you can be assured the carriers are still making a comfortable profit) there is not much optometric malpractice occurring. This is a fact optometry can be proud of. According to the February 2004 issue of *Ophthalmology Management* (the last year we saw published data) the average malpractice premium for an ophthalmologist in 2003 was about \$15,000/year. When organized medicine raises the malpractice issue with a legislator tell them: *"I'll show you mine (rate), if you show me yours."* **Low premium rate = low occurrence.**

For further information contact Sherry L. Cooper, Associate Director, State Government Relations 314-983-4266, or slcooper@AOA.org.

Last Revised January 15, 2013